

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

Case No. 4597

13 **ANTHONY DOUGLAS GILMOUR**

STATEMENT OF ISSUES

14 **Applicant for Registration as a Pharmacy
Technician**

15 Respondent.

16
17
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about September 25, 2015, the Board of Pharmacy, Department of Consumer
23 Affairs received an application for registration as a pharmacy technician from Anthony Douglas
24 Gilmour (Respondent). On or about July 27, 2012, Anthony Douglas Gilmour certified under
25 penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 application. The Board denied the application on January 25, 2013.

27 **JURISDICTION**

28 3. This Statement of Issues is brought before the Board of Pharmacy (Board),

1 Department of Consumer Affairs, under the authority of the following laws. All section
2 references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 480 of the Code states:

4 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
5 one of the following:

6 "(1) Been convicted of a crime. A conviction within the meaning of this section means a
7 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
8 board is permitted to take following the establishment of a conviction may be taken when the
9 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
10 an order granting probation is made suspending the imposition of sentence, irrespective of a
11 subsequent order under the provisions of Section 1203.4 of the Penal Code.

12 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
13 benefit himself or herself or another, or substantially injure another.

14 ...

15 "(c) A board may deny a license regulated by this code on the ground that the applicant
16 knowingly made a false statement of fact required to be revealed in the application for the
17 license."

18 5. Section 4300 of the Code states:

19 "... (c) The board may refuse a license to any applicant guilty of unprofessional conduct.
20 The board may, in its sole discretion, issue a probationary license to any applicant for a license
21 who is guilty of unprofessional conduct and who has met all other requirements for licensure.
22 The board may issue the license subject to any terms or conditions not contrary to public policy,
23 including, but not limited to, the following:

24 "(1) Medical or psychiatric evaluation.

25 "(2) Continuing medical or psychiatric treatment.

26 "(3) Restriction of type or circumstances of practice.

27 "(4) Continuing participation in a board-approved rehabilitation program.

28 "(5) Abstention from the use of alcohol or drugs.

1 "(6) Random fluid testing for alcohol or drugs.

2 "(7) Compliance with laws and regulations governing the practice of pharmacy.

3 ..."

4 FIRST CAUSE FOR DENIAL OF APPLICATION

5 (Convictions)

6 6. Respondent's application is subject to denial under section 480(a)(1) of the code in
7 that Respondent was convicted of crimes that are substantially related to the duties, functions, or
8 qualifications of a pharmacy technician. The circumstances are as follows:

9 a. On or about May 2, 1985, Respondent was convicted of violating Penal Code
10 section 496, receiving stolen property, a felony.

11 b. On or about September 6, 1990, Respondent was convicted of violating Health
12 and Safety Code § 11351, possession of controlled substances for sale. Respondent possessed
13 marijuana and cocaine.

14 SECOND CAUSE FOR DENIAL OF APPLICATION

15 (Failure to Disclose Conviction on Application)

16 Respondent's application is subject to denial under section 480(a)(2) and 480(c) of the
17 code in that Respondent failed to disclose his 1985 felony conviction of violating Penal Code
18 section 496 on his application for licensure. This was an act involving dishonesty, fraud, or
19 deceit with the intent to substantially benefit himself. Respondent knowingly made a false
20 statement on his application for licensure when he failed to disclose the conviction.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Pharmacy issue a decision:

24 1. Denying the application of Anthony Douglas Gilmour for a pharmacy technician
25 license;

26 ///

27 ///

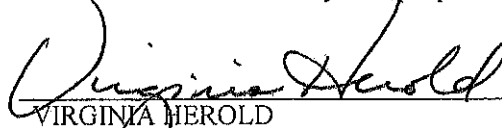
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. Taking such other and further action as deemed necessary and proper.

DATED:

5/9/13



VIRGINIA HEROLD

Executive Officer

Board of Pharmacy

Department of Consumer Affairs

State of California

Complainant

SF2013404227

40676637.doc